

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

David Thomas Miller, # 291418, )  
Plaintiff, ) C/A No.: 4:08-cv-3745-GRA  
v. )  
Independent Health Services, )  
Defendant. )  
\_\_\_\_\_  
)

**ORDER**  
(Written Opinion)

This matter comes before the Court to review Magistrate Judge Thomas E. Rogers' Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C., filed on August 28, 2009. The magistrate recommends that this Court grant Defendant's Motion for Summary Judgment . For the reasons stated herein, this Court adopts the magistrate's recommendation.

**Background**

Plaintiff filed this action under 42 U.S.C. §1983 on November 13, 2008, alleging that his constitutional rights were violated due to Defendant incorrectly filling his prescriptions while he was housed at the DCDC. Defendant moved for summary judgment on December 21, 2009, alleging there was no issue of material fact. The magistrate judge recommended granting Defendant's Motion in its July 7, 2009, Report and Recommendation. Although objections were due on July 26, 2010, Plaintiff filed no objections.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

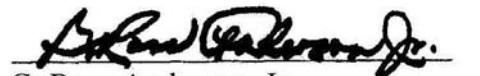
The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). As noted above, Plaintiff did not file any objections.

After a review of the magistrate's Report and Recommendation, applicable case law, and the record, this Court finds that the magistrate applied sound legal

principles to the facts of this case. Therefore, this Court adopts the Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED THAT Defendant's Motion for Summary Judgment is GRANTED.

**IT IS SO ORDERED.**



G. Ross Anderson, Jr.  
Senior United States District Judge

August 18, 2010  
Anderson, South Carolina

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal**.